

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT WINBURN,

Plaintiff,

v.

Case No. 1:04-cv-562
HON. R. ALLAN EDGAR

UNKNOWN HALLOWELL,

Defendant.

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**OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties. The Court has received objections from plaintiff. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

Defendant argues that plaintiff has failed to prove that his legal documents were confiscated or that his access to the courts was denied. Defendant suggests that the court disregard plaintiff's evidence that his documents were confiscated by defendant. A genuine issue of fact exists on the record of this case. The court concludes that the objections are without merit and they are denied.

THEREFORE, IT IS **ORDERED** that the Report and Recommendation of the Magistrate Judge is **APPROVED and ADOPTED** as the opinion of the court.

IT IS **FURTHER ORDERED** that defendant's Motion for Summary Judgment (docket #36) is **DENIED**.

Dated: *March 10, 2006*

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE